

ASSEMBLY BILL

No. 2441

Introduced by Assembly Member Klehs

February 23, 2006

An act to add Section 6591.7 to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2441, as introduced, Klehs. Sales tax reimbursement: penalty.

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property, and imposes a penalty for failure to pay any tax to the state or any amount of tax required to be collected and paid to the state.

This bill would, in the case of any person who collects any sales tax reimbursement and knowingly fails to timely remit that amount to the board, impose, except as provided, a penalty of 40% of the amount of sales tax reimbursement that is not timely remitted. This bill would relieve that penalty if the person certifies, under penalty of perjury, to the board, in the form and manner prescribed by the board, that the failure was due to reasonable cause.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 6591.7 is added to the Revenue and Taxation Code, to read:

6591.7. (a) Any person who collects any sales tax reimbursement required to be collected and remitted to the board under this part, and who knowingly fails to timely remit that amount to the board, shall pay, in addition to any other penalty imposed by this part, a penalty of 40 percent of the amount of sales tax reimbursement that is not timely remitted.

(b) No penalty shall be imposed by this section if either of the following applies:

(1) The unremitted sales tax reimbursement averages one thousand dollars (\$1,000) or less per month, or does not exceed 5 percent of the total amount of sales tax reimbursement collected for the period in which the tax was due.

(2) The person certifies, under penalty of perjury, to the board, in the form and manner prescribed by the board, that the failure to remit was due to reasonable cause.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.